REMARKS

Rejected claims 4 and 7 have been cancelled without prejudice.

Claims 1 and 14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Horzewski '588 in view of Gibson '789 and further in view of Vandegrift '749. This rejection is respectfully traversed with respect to these claims as amended herein.

Claim 1 as amended now specifically recites "an outer expandable sheath disposed about the inner cannula and including first and second shells disposed to contact tissue and configured as substantially half cylindrical segments adjacently aligned along longitudinal edges thereof to expand in an outward direction against tissue in contact therewith responsive to the tip of the inner cannula slidably passing longitudinally in a proximal direction through the sheath for removal therefrom," and "a resilient connector attached between the first and second shells for resiliently urging a distal end of the first shell toward a distal end of the second shell to form an inner dimension at the distal end of the outer expandable sheath smaller than the outer dimension of the tip positioned distally of the distal end of the outer expandable sheath."

In addition, dependent claim 14 is further limited by recitation of "an elongated handle eccentrically attached near a proximal end of the outer sheath and displaced laterally substantially in said outward direction."

These aspects of the claimed invention are not disclosed or even fairly suggested by the cited references considered either alone or in the combination proposed by the Examiner. Neither Horzewski et al '588 nor Gibson '789 discloses separable cylindrical half shells positioned to contact tissue, and expandable in an outward direction in response to slidable passage through the shells of a distal tip on an inner cannula. As the Examiner correctly notes, Horzewski et al '588 does not disclose an outer sheath of first and second shells. At best, this reference merely discloses an inner tubular element 100 with overlapping edges supporting a ratcheting mechanism to be expanded by the tip 150. And, such inner tubular element is covered by an elastomeric outer tubular element 101 that shrouds the inner tubular element 100 from contacting tissue at a surgical site.

Similarly, Gibson '789 relies upon a thin soft-rubber sheath *c* for covering and constraining separate segments *e* from contacting tissue at a surgical site. And, the structure of Gibson '789 is not noted to permit removal of the inner cannula from the outer expandable sheath (to provide an available instrument channel).

Thus, merely adding Vandegrift '749 similarly inhibits removal of the inner plunger 12 from the channel of segments 8, 9. And, the laterally-displaced, eccentrically-attached handle, as claimed, provides convenient indication at the

proximal end of the apparatus of the orientation of the outward expansion direction of the first and second half shells that form the outer sheath.

It is therefore respectfully submitted that this combination of the three references is deficient of disclosure of elements in a structure that in any way resembles Applicant's claimed invention, and that amended claims 1 and 14 are now patentably distinguishable over these cited references.

Favorable reconsideration is solicited.

Respectfully submitted,
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Dated: 1/14/09

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